

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Rick Davis, Sr.

v.

Case No. 18-cv-1246-SE

N.H. State Prison Warden

ORDER

No objection having been filed, I herewith approve the Report and Recommendation of Magistrate Judge Andrea K. Johnstone dated February 27, 2024. For the reasons explained therein, the Warden's motion for summary judgment (Doc. No. 97) and his previous motion for summary judgment (Doc. No. 71), which was previously denied without prejudice, but has been incorporated therein, is granted. Davis's petition for a writ of habeas corpus is dismissed.

“'[O]nly those issues fairly raised by the objections to the magistrate's report are subject to review in the district court and those not preserved by such objection are precluded on appeal.'”
School Union No. 37 v. United Nat'l Ins. Co., 617 F.3d 554, 564 (1st Cir. 2010) (quoting Keating v. Secretary of Health & Human Servs., 848 F.2d 271, 275 (1st Cir.1988)); see also United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986) (after proper notice, failure to file a specific objection to magistrate's report will waive the right to appeal).

I find that the Petitioner has failed to make a substantial showing of the denial of any constitutional right, and no jurists of reason would find it debatable whether this court's assessment of the constitutional claims or procedural rulings are correct. Therefore, I

decline to issue a certificate of appealability. See 28 U.S.C. § 2253(c)(2); Rule 11, Rules Governing § 2254 Cases; First Cir. LR 22.0; see also Slack v. McDaniel, 529 U.S. 473, 483-84 (2000).

The clerk shall enter judgment and close this case.



Samantha D. Elliott
United States District Judge

Date: March 29, 2024

cc: Rick Davis, pro se
Elizabeth C. Woodcock, Esq.